

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

Senate Bill 432 (Senator Jacobs, *et al.*)
Education, Health, and Environmental Affairs

Environment - Sewage Sludge Utilization - Zoning and Land Use Requirements

This bill prohibits the Maryland Department of the Environment (MDE) from issuing a sewage sludge utilization permit unless the sewage sludge utilization site meets all zoning and land use requirements or ordinances of the applicable county.

Fiscal Summary

State Effect: The bill is not expected to significantly affect State finances as discussed below.

Local Effect: To the extent the bill limits the land application of sewage sludge, local governments, as generators of sewage sludge, may incur additional costs for the disposal of sewage sludge. Any such impact cannot be reliably estimated at this time. Any additional local administrative burden associated with reviewing sewage sludge utilization permits is not expected to significantly affect local government finances.

Small Business Effect: Potential meaningful.

Analysis

Current Law: MDE is the primary State agency that regulates sewage sludge utilization. A sewage sludge utilization permit is required for any person who collects, incinerates, stores, treats, applies to land, transports, or disposes of sewage sludge or septage in Maryland. A separate permit is required for each sewage sludge utilization site.

A copy of an application for a sewage sludge utilization permit is mailed to the county and any municipality where the sewage sludge utilization site is to be located and any other county within one mile of the site. Any county or municipality that receives a copy of an application must be given the opportunity to consult with MDE about the decision to issue, deny, or place restrictions on a sewage sludge utilization permit.

MDE may not issue a permit to install, materially alter, or materially extend a sewage sludge *composting* facility or a sewage sludge *storage* facility until the facility meets all zoning and land use requirements of the county where the facility is to be located.

Sewage sludge is subject to both State and federal regulations. At the State level, agricultural use of Class B sewage sludge (which meets standards for metal concentrations and has been treated by a federally approved Procedure to Significantly Reduce Pathogens) is subject to both MDE permit requirements and the nutrient management regulations of MDE. MDE regulates the application of Class B sewage sludge through an individual permit required for those sites where sewage sludge is applied. Under State and federal regulations, Class A sewage sludge (which meets more stringent requirements for chemical content, pathogen reduction, and vector attraction) is allowed to be distributed to the public as fertilizer. MDE issues a permit to the distributor of Class A sewage sludge products but does not regulate sites where it is used.

Background: Sewage sludge is one of the final products of the treatment of sewage at wastewater treatment plants. Sewage treatment breaks down organic matter and kills disease-causing organisms leading to the creation of the sludge. According to several federal research institutions, the U.S. Environmental Protection Agency has long promoted the beneficial use of sewage sludge. Despite this, some academic researchers note that there remain risks of applying treated sewage sludge to agricultural land as fertilizer.

Sewage sludge is being considered for use as a renewable fuel. The California Energy Commission has certified one company's proprietary sewage sludge fuel creation process for inclusion in the state renewable portfolio standard, and the company's waste-to-energy plant is currently under construction.

According to MDE, more than 700,000 wet tons of sewage sludge are generated in Maryland each year. There are approximately 654 active sewage sludge utilization permits effective in the State. Approximately 150 permits and renewals are issued each year, and permits are effective for up to five years. MDE reports that in Maryland approximately 50% of sewage sludge is applied to agricultural land (an increase from 31% in 2006); 21% is used for land reclamation such as restoring surface mines; 18% is composted or pelletized and made into a commercial soil supplement; and 11% is

disposed of in landfills or incinerated (a decrease from 13% in 2006). Since 2006 the share of sewage sludge being hauled out of state has been phased out from 41% to zero.

State Fiscal Effect: MDE indicates that the bill's requirement may affect the department's workload and permit fee revenues to the extent it makes the permit process for land application of sewage sludge more burdensome and causes companies or local governments generating or handling sewage sludge to instead transport the sewage sludge out of state or to a landfill or incineration facility. While the extent to which this may occur is unclear at this time, Legislative Services advises that any fiscal impact is not expected to be significant.

MDE indicates that approximately 150 new or renewal sewage sludge utilization permits are issued each year and that the permit fees for agricultural and marginal land application are \$175 and \$350, respectively. It is assumed, therefore, that any decrease in revenues resulting from fewer permit applications for the land application of sewage sludge is relatively minimal. In addition, any decrease in fee revenues is partially offset by fees for additional transportation or other permits to dispose of sewage sludge as an alternative to land application; the fee for these permits is lower than for the land application permits.

While MDE indicates that the bill's requirement may impact its workload, it is assumed that any increase in workload is not likely to be significant and can be handled with existing resources. To the extent additional personnel are needed, they can be requested through the annual budget process.

Local Fiscal Effect: To the extent local governments that own wastewater treatment plants utilize land application of sewage sludge, a more burdensome permitting process may result in those local governments incurring additional costs to transport sewage sludge out of state or to dispose of it in a landfill or incineration facility. For example, Frederick County indicates that the cost of its contract with the private hauling firm that disposes of its biosolids may increase to reflect the increased hauling distances and additional administrative burden. Further, as some local governments choose to restrict land application of sewage sludge, disposal costs will increase for other local governments as generators of sewage sludge.

County planning and zoning departments may be affected by the additional administrative burden of having to review applications for conformance with zoning and land use requirements and ordinances, although the extent of any effect is likely to vary by county. In Charles County, for example, verifying a site's conformance with zoning and land use requirements is not likely to be a burden since the county currently conducts a permitting process for sewage sludge utilization sites in addition to the MDE permit process. While counties that are less involved in the permitting of sewage sludge

utilization may be more significantly affected by the bill, any additional administrative burden is not expected to significantly affect local government finances.

Small Business Effect: MDE indicates that the number of small businesses that might be affected by the bill is unknown. However, any small business sewage sludge applicators, farms, or other commercial entities that use sewage sludge for fertilizer as well as owners and operators of commercial wastewater treatment plants may be affected. Notably, farmers can benefit considerably from the use of sewage sludge as fertilizer as a less expensive alternative to chemical fertilizer. MDE indicates that, in 2008, there were 305 agricultural land application permits in the State. To the extent the bill limits the land application of sewage sludge, farmers or other small businesses may be negatively impacted. For example, by including local zoning authorities in the permit process, costs may increase slightly, while the duration of the permit review process may increase significantly.

Additional Information

Prior Introductions: Identical bills were introduced in the 2008 session as SB 927 and HB 1529. SB 927 received an unfavorable report from the Senate Education, Health and Environmental Affairs Committee, while HB 1529 was withdrawn after its hearing.

Cross File: None.

Information Source(s): Charles, Frederick, and Montgomery counties; Maryland Department of the Environment, Department of Legislative Services

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